

### **REMARKS**

The Official Action mailed April 2, 2009, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statement filed on September 30, 2008.

However, the Applicant has not received acknowledgment of the Information Disclosure Statements filed on August 16, 2006, and October 17, 2006 (received by OIPE October 19, 2006). The above-referenced Information Disclosure Statements appear in the Image File Wrapper. The Applicant respectfully requests that the Examiner provide initialed copies of the Form PTO-1449s evidencing consideration of the above-referenced Information Disclosure Statements.

Claims 1-11 are pending in the present application, of which claims 1, 2 and 8-11 are independent. Claims 1, 2, 5 and 8-11 have been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

The Official Action rejects claims 8 and 9 under 35 U.S.C. § 101 asserting that "the claimed invention is directed to non-statutory subject matter" (page 2, Paper No. 20081117). Specifically, the Official Action asserts that "[t]he claimed process comprises nothing more than receiving and adding data and does not include a practical application of the data" (page 2, Id.). Also, the Official Action asserts that "[f]or [a] process to be statutory, a computer and the descriptive material claimed must act to define a structural and functional interrelationship between the 'modeling' steps and the claimed elements of a computer such that a tangible result is realized and therefore useful" (Id.). Claims 8 and 9 already recite, for example, "specifying multiple route points to which a user is to be guided before reaching a destination point," which is a practical application of the data. Also, in response, claim 8 has been amended to recite

a “guidance route search method to be performed by a hardware processor, ... inputting via an interface an information signal ...; calculating by a calculation unit” and “the staying time period at each of the route points being established by a processor component,” and claim 9 has been amended to recite a “guidance route search method to be performed by a hardware processor, ... inputting via an interface an information signal ...; determining by a first processor component ...; making by a second processor component ...; and adjusting by a third processor component ... ,” which define a structural and functional interrelationship between the steps of the claimed method and the claimed elements of a computer such that a tangible result is realized. Therefore, claims 8 and 9 are directed to statutory subject matter.

The Official Action rejects claims 10 and 11 under 35 U.S.C. § 101 asserting that “the claimed invention is directed to non-statutory subject matter” (page 3, Id.). Specifically, the Official Action notes that “a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional relationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized” (Id.). In response, claims 10 and 11 have been amended to recite a “computer readable recording medium which records a program concerning a guidance route search method” and “inputting via an interface an information signal ....” Therefore, claims 10 and 11 are directed to statutory subject matter.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 101 are in order and respectfully requested.

The Official Action rejects claims 8-11 under 35 U.S.C. § 112, second paragraph, asserting that the claims “do not appear to have any tangible results and physical structure” and that “the claims [are] unclear and indefinite” (pages 3-4, Id.). In response, claims 8-11 have been amended as noted in detail above. The Applicant respectfully submits that amended claims 8-11 particularly point out and distinctly claim the subject matter which applicant regards as the invention and are definite.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are in order and respectfully requested.

The Official Action rejects claims 1-11 as anticipated by U.S. Patent No. 6,119,095 to Morita. The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claims 1 and 2 have been amended to recite a determination unit adapted to determine whether there is spare time other than the staying time at the route points and the traveling time among the route points; and an adjustment unit adapted to add a part or all of the spare time to the staying time at one or more route point, if it is determined that there is the spare time. Similarly, independent claims 8-11 have been amended to recite determining whether there is spare time other than the staying time at the route points and the traveling time among the route points; and adding a part or all of the spare time to the staying time at one or more route point, if it is determined that there is the spare time. For the reasons provided below, the Applicant respectfully submits that Morita does not teach the above-referenced features of the present invention, either explicitly or inherently.

The Official Action asserts that Morita discloses the following (page 6, Paper No. 20081117):

the determination unit operates to determine whether there is spare time other than the staying time at the route points and the traveling time among the route points within the range of the trip time period (col. 7, lines 4-67); and

if it is determined by the determination unit that there is the spare time, the adjustment unit operates to add a part or all of the spare time to the staying time at least at one route point (col. 7, lines 4-67, col. 8, lines 1-33).

The Applicant respectfully disagrees and traverses the assertions in the Official Action.


Columns 7 and 8 of Morita describe the features shown in Figure 3, and Morita appears to merely teach a step S306, where the intended travel time is compared to the expected consumption time. If the intended travel time is greater than the expected consumption time, then an itinerary is prepared in step S307. However, Morita does not teach an adjustment unit adapted to add a part or all of the spare time to the staying time at one or more route point, if it is determined that there is the spare time, either explicitly or inherently.

Therefore, the Applicant respectfully submits that Morita does not teach the above-referenced features of the amended independent claims, either explicitly or inherently.

Since Morita does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

  
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